

REMARKS

STATUS OF THE CLAIMS

Claims 19, 25-39 and 41-43 were pending and under examination. Applicants note with appreciation that claims 19 and 25-36 are allowable. (Advisory Action, paragraph 12). Applicants gratefully acknowledge the Examiner's suggested language for claims 37-39 and 41-43 and have incorporated that language by amendment herein. In addition, dependent claims 25-30 have been amended to recite "the method of claim..." rather than "a method of claim... ." Thus, claims 19, 25-39 and 41-43 are pending as shown above.

DRAWINGS

Although Applicants maintain that Figure 3 did not constitute new matter for the reasons of record, the drawing has been deleted by amendment herein.

SEQUENCE LISTING

Applicants submit a revised sequence listing herewith.

35 U.S.C. § 132

The Examiner continued to object to Figure 3 and the revised Sequence Listing containing SEQ ID NO:5, alleging that the sequence depicted in this Figure was not a part of the specification as originally filed. (Advisory Action, page 3). In support of this objection, the Examiner maintains that "whether or not the amino acid sequence of a protein got corrected in the art prior to the invention is not relevant. Whether or not that corrected amino acid sequences was described in the specification as originally filed is the issue that is relevant." *Id.*

For the reasons of record and those presented herein, Applicants traverse the rejection. In particular, Applicants note that when correcting sequence errors in as-filed specifications, the "corrected amino acid" will, by definition, never be a part of the specification as originally filed. Thus, the description in an as-filed specification of a sequence that includes known errors should always constitute an adequate description of the known and published corrected sequence. Accordingly, in the pending case, Figure 3 did not introduce new matter.

Nonetheless, in order to expedite allowance of the claims, Applicants have canceled new Figure 3 and present herewith a revised sequence listing. In view of the foregoing amendments, Applicants request that this objection be withdrawn.

35 U.S.C. § 112, FIRST PARAGRAPH

The Examiner maintained that claims 37-39 and 41-43 contained new matter in as much as the specification allegedly did not provide an adequate description for "antigens" as claimed. (Advisory Action, paragraph 9).

Although Applicants again submit that the skilled artisan would plainly read the specification as set forth previously in the claims, Applicants have incorporated the language suggested by the Examiner in order to obviate these rejections. Withdrawal thereof is respectfully requested.

35 U.S.C. § 112, SECOND PARAGRAPH

The rejection of claims 37 and 41-43 as alleged to be vague and confusing was maintained. (Advisory Action, paragraph 10).

Applicants thank the Examiner for the suggested language and have incorporated that language by amendment herein. Therefore, withdrawal of this rejection is in order.

CONCLUSION

In view of the foregoing amendments Applicants submit that all of the pending claims are now in condition for allowance and request early notification to that effect.

Please direct all further communications regarding this application to:

Rebecca M. Hale
CHIRON CORPORATION
Intellectual Property – R440
P. O. Box 8097
Emeryville, CA 94662-8097
Tel: 1 510 923-3179
Fax: 510 923-2969

Respectfully submitted,

Date: 5-24-04

By: 

Dahna S. Pasternak
Registration No. 41,411
Attorney for Applicants

CHIRON CORPORATION
Intellectual Property – R440
P. O. Box 8097
Emeryville, CA 94662-8097
Tel: 1 510 923-3179
Fax: 510 923-2969